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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

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In the Matter of )

Numbering Resource Optimization )

CC Docket No. 99-200

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

TO: The Commission

**PETITION FOR RECONSIDERATION  
 OF WINSTAR COMMUNICATIONS, INC.**

Winstar Communications, Inc. ("Winstar"), pursuant to 47 U.S.C. § 405 and 47 C.F.R. § 1.429, hereby respectfully petitions the Federal Communications Commission ("FCC" or "Commission") to reconsider certain aspects of its *Report and Order* released on March 31, 2000 in the above-captioned proceeding.<sup>1</sup> Specifically, Winstar seeks reconsideration of the FCC's decisions to (1) require applicants for initial numbering resources to include with their application evidence that they are or will be capable of providing service within sixty days of the numbering resources activation date, and (2) require the North American Numbering Plan Administrator ("NANPA") and Pooling Administrator to initiate reclamation within sixty days of expiration of the service provider's applicable activation deadline. Winstar seeks reconsideration of these aspects of the *Report and Order* because more than sixty days are required to place a number "in service" after it has been activated. Therefore, carriers will not be able to comply with these aspects of the *Report and Order*.

As explained in more detail below, Winstar respectfully submits that the FCC instead should require (1) applicants for initial numbering resources to include with their application evidence that they are or will be capable of providing service to end users within six

<sup>1</sup> *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 00-104 (rel. March 31, 2000) ("*Report and Order*").

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months of receipt of the numbering resources, and (2) the NANPA and Pooling Administrator to initiate reclamation procedures within sixty days of expiration of the service provider's applicable deadline to activate and commence assignment to end users of their numbering resources. These modest clarifications will serve the public interest and will further the pro-competitive goals of the 1996 Act by allowing competitive local exchange carriers ("CLECs") sufficient time to place numbers in service as necessary to compete with the incumbent local exchange carriers ("ILECs").

**I. THE FCC SHOULD AMEND ITS RULES TO FOCUS ON THE DEADLINE FOR PLACING A CODE "IN SERVICE" RATHER THAN THE DEADLINE FOR "ACTIVATION"**

In November of 1999, the Industry Numbering Committee ("INC") amended the Central Office Code (NXX) Assignment Guidelines ("CO Code Assignment Guidelines") to clarify the terms "active code" and "in service." The term "active code" was defined as "[a] code assigned by the CO Code Administrator and implemented in the PSTN [Public Switched Telephone Network] for specific routing and rating requirements as of the LERG [Local Exchange Routing Guide] effective date."<sup>2</sup> The term "in service" was defined as "[a]n active code in which specific subscribers or services are utilizing assigned telephone numbers."<sup>3</sup> Under these definitions, an "active code" may or may not be "in service," but a code that is "in service" must necessarily be an "active code."

In an effort to strengthen the reclamation procedures, the FCC sought in the *Report and Order* to clarify the definitions of "active code" and "in service." The FCC's goal for these clarifications as revealed in the discussion of the *Report and Order* seems clear enough;

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<sup>2</sup> CO Code Assignment Guidelines, § 13.

<sup>3</sup> *Id.*

carriers must activate a code and begin assigning numbers to end users within six months of assignment, or the NANPA will initiate reclamation of the numbering resources within sixty days of the expiration of the six-month deadline. Winstar fully supports this goal. However, Winstar respectfully submits that the attempted clarifications have actually created additional ambiguities that are inconsistent with the FCC's goal.

In the *Report and Order*, the FCC clarified the term "in service" to mean not just activation of the code, but also that the carrier has begun to assign to end users numbers within the NXX code.<sup>4</sup> The FCC explained that this clarification will better ensure that NXX codes are not left idle for a lengthy period.<sup>5</sup> However, the FCC required initiation of reclamation procedures within sixty days of the expiration of the "activation" deadline rather than the "in service" deadline. Moreover, the FCC did not specifically define "activation" deadline.

The use of the term "activation deadline" throughout the *Report and Order* rather than "in service deadline" unnecessarily creates ambiguities. The FCC most likely intended the term "activation deadline" to mean the expiration date of the six-month period in which a carrier must activate a code and begin assigning numbers to end users. However, the term "activation deadline" could also refer to the expiration date for the time period in which a carrier must "activate" a code. A carrier does not have to assign any numbers from a code to end-user customers in order to satisfy the activation requirement, as the FCC correctly recognized in the *Report and Order*.<sup>6</sup> Consequently, it is unclear whether the term "activation deadline" refers to

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<sup>4</sup> *Report and Order* at ¶ 235.

<sup>5</sup> This clarification is consistent both with the FCC's goal, and with the current CO Code Assignment Guidelines, under which carriers are obligated to submit to the NANPA within six months of the requested effective date of newly obtained NXX codes a Part 4 certification that the code has been placed "in service." CO Code Assignment Guidelines, § 6.3.3.

<sup>6</sup> *Report and Order* at ¶ 233.

the date at which a carrier must place a code “in service” by activating the code and beginning to assign numbers from that code to end users, or the date at which a carrier must ensure that the code is “active,” which means merely that the code has been assigned by the CO Code Administrator and implemented in the PSTN for specific routing and rating requirements as of the LERG effective date.

Winstar respectfully submits that the FCC could eliminate possible ambiguities with respect to the six-month period in which a carrier must both activate a code and begin assigning numbers from that code to end users by replacing the term “activation deadline” with the term “in service deadline.” The FCC could achieve the same result by replacing the term “activation deadline” with the phrase “deadline to activate and commence assignment to end users of their numbering resources.” Either of these clarifications would be consistent with the definition of the term “in service,” which the FCC clarified in the *Report and Order*, to mean not just activation of the code, but also that the carrier has begun to assign to end users numbers within the NXX code.<sup>7</sup> Moreover, these clarifications would help retain the distinction between a code that is “active” and a code that is “in service.” As such, replacing the term “activation deadline” with the term “in service deadline” or the phrase “deadline to activate and commence assignment to end users of their numbering resources” would serve the public interest.

Winstar also urges the FCC to reaffirm its decision in the *Report and Order* not to amend the CO Code Guidelines with respect to the “effective date” that a carrier can request when it applies for a code. Under the current CO Code Assignment Guidelines, carriers that apply for a code must request an effective date – the date upon which the code becomes an “active code” – that is a minimum of 66 days and a maximum of 6 months from the application

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<sup>7</sup> *Id.* at ¶ 235.

date. Carriers cannot request an effective date of less than 66 days from the application date, because 66 days is the minimum time period necessary to activate a code.<sup>8</sup> The FCC should not prevent carriers from requesting effective dates up to 6 months from the application date, because the longer the advanced notice from a carrier, the easier it is for NANPA and the states to plan for future area code relief. Therefore, Winstar supports the FCC's decision to leave this rule intact, and urges the FCC to reaffirm this decision in its order on reconsideration.

## **II. SIX MONTHS IS THE MINIMUM TIME NECESSARY TO PLACE A NUMBER "IN SERVICE"**

The INC has determined through industry consensus that carriers require six months from the initially published effective date in order to place a code "in service." Accordingly, the CO Code Assignment Guidelines stipulate that "[a] code assigned either directly by the Code Administrator or through transfer from another Code Holder should be placed in service within 6 months after the initially published effective date."<sup>9</sup>

The six-month minimum timeframe for placing a number "in service" is consistent with Winstar's own experience with both growth and initial codes. Placing a code "in service" requires a sequence of events, some of which are concurrent, some of which are not.

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<sup>8</sup> This 66 calendar day interval consists of the current standard 45 day period (starting from the time the NXX code request is input to the Routing Data Base System ("RDBS") and the Business Rating Input Data Base System ("BRIDS")) for NXX code activation plus an additional 21 calendar days required for code request processing. This is simply to permit flow through of information entered on the Assigned Code Record ("ACD") screen to the Public Switched Telephone Network ("PSTN"). RDBS contains a complete description of all Local Exchange Companies' networks in the NANP Area and pertinent information relating to the networks of other code holders. This provides information for, (1) message routing, (2) common channel signaling call setup routing, and (3) operator service access routing. BRIDS contains data in the rating of calls. Data supports all CO Codes assigned through these Guidelines, as well as all CO Codes in place prior to the existence of these Guidelines, and covers all North American Numbering Plan ("NANP"). BRIDS is a replacement database for BRADS.

<sup>9</sup> CO Code Assignment Guidelines, § 6.3.3.

For example, the process often initiates when the Marketing Department assesses demand in a specific rate center and determines that a code is required to serve potential customers. The Marketing Department then advises the Engineering Department, which initiates a request for a new code from the NANPA. As explained above, a minimum of 66 days is required to activate an NXX code, as the FCC recognizes in the *Report and Order*.<sup>10</sup>

The Engineering Department then notifies the 911 Department of its application for an NXX code for that rate center. The 911 Manager must ascertain if a 911 Emergency Service Agreement is required by the local 911 Administrative Agency for that rate center. If an agreement is not required, then the 911 Manager initiates a request for the default Emergency Service Number (“ESN”) for that rate center by submitting the appropriate documentation. However, if a service agreement is required, then the 911 Manager initiates the process of preparing the agreement for execution, which includes preparing the appropriate exhibits and attachments that the local 911 agency requires. All Emergency Service Agreements must pass legal scrutiny before they are executed, which may exceed 60 days depending upon the complexity of the agreement and the number of personnel required to finalize and execute the agreement. In general, the Emergency Service Agreement is the means for acquiring the default ESN.

Once the 911 manager secures the default ESN, he then orders 911 trunks if required. It typically takes up to 30 days to obtain 911 trunking once a clean Access Service Request (“ASR”) is processed. This interval is determined by the ILEC in that area. To further complicate matters, Winstar cannot order the 911 trunking until it *has the new NXX in its possession* and has secured the appropriate default ESN. Typically, the 911 Administrative

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<sup>10</sup> *Report and Order* at ¶ 233, citing CO Code Assignment Guidelines, § 6.1.2.

Agency requires that the carrier verify that the NXX(s) has been assigned and submit information on the relevant rate area and the switch to which the NXX(s) has been assigned before it will determine the Public Safety Answering Point ("PSAP") best suited to handle default routed 911 calls prior to assigning the default ESN.

Each NXX must also be tested before it can be released to the Marketing Department. Testing ensures that (1) the NXX is routing over the trunk group designated for that NXX, (2) default routing based on the ESN received is operational, and (3) the ILEC has opened the code in its network. Winstar must perform another round of testing with interexchange carriers. Although this type of testing can be completed in a relatively short interval, a prudent carrier allows two weeks thoroughly to verify call completion and to troubleshoot any problems that arise since other carriers may not be cooperative in expediting resolution of problems identified during testing.

As this example demonstrates, numerous steps must be completed to place a code "in service." Many of these steps cannot be completed without the assistance and cooperation of other carriers, including carriers like the ILEC which may not share the same interest in expediting placement of the code "in service." Delay at any step for any reason can halt the process, and require six months or more to finish placing the code "in service." Therefore, Winstar urges the FCC to make clear that all carriers have a minimum of six months in order to both activate a code and to begin assigning numbers from that code to end users.

### **III. THE FCC SHOULD AMEND ITS RULES TO ALLOW CARRIERS SIX MONTHS TO PLACE BOTH NEW CODES AND GROWTH CODES "IN SERVICE"**

In the *Report and Order*, the FCC required applicants for initial numbering resources to include with their application evidence that they are or will be capable of providing

service within sixty days of the numbering resources activation date. The *Report and Order* suggests that the FCC will consider a carrier to be “capable of providing service” when it has secured the necessary facilities and/or agreements necessary to provide service to end users. However, Winstar respectfully submits that the phrase “capable of providing service” will create unnecessary problems, because a carrier cannot actually provide service to an end user until it has placed the code “in service.” As explained in the previous section, six months is the minimum time necessary to place a code in service. Consequently, carriers cannot include with their applications for initial codes evidence that they are or will be capable of providing service within sixty days of the numbering resources activation date.

Winstar respectfully submits that the deadline for placing initial codes “in service” should match the deadline for placing growth codes “in service.” By adopting the same deadlines, the FCC would reduce confusion about the application requirements and the necessity for waiver requests. Unless the FCC amends its current rule with respect to initial codes, waiver requests would become the norm, not the exception, because it is not feasible to require carriers entering new markets to place a code “in service” within 60 days of activation. Instead, the FCC should require applicants for initial numbering resources to include with their application evidence that they are or will be capable of providing service to end users within six months of receipt of the numbering resources.

For similar reasons, the FCC should amend its rules with respect to growth codes. The current rules require the NANPA and Pooling Administrator to initiate reclamation within sixty days of expiration of the service provider’s applicable activation deadline. This rule suggests that carriers must place a number “in service” within sixty days after activation, which is not possible for the reasons explained in the previous section. Therefore, Winstar urges the

FCC to amend the rules to provide that the NANPA and Pooling Administrator must initiate reclamation procedures within sixty days of expiration of the service provider's applicable deadline to activate and commence assignment to end users of their numbering resources.

Without these requested modifications, carriers in general, and CLECs in particular, will not be able to meet the deadlines specified in the *Report and Order*. The current rules also dramatically diminish the competitive impact of CLECs, because ILECs can place codes in service faster than CLECs. Among other reasons, ILECs can place codes in service faster than CLECs because the ILECs (1) initially established the default ESNs, (2) have an imbedded network for default routing in place, and (3) often serve as the technology provider for 911. Thus, ILECs are not subject to the same limitations imposed on CLECs by the 911 Administrative Agencies. Therefore, the requested amendments are in the public interest because they further the pro-competitive goals of the 1996 Act by allowing CLECs sufficient time to place numbers in service as necessary to compete with the ILECs.

**CONCLUSION**

For these reasons, Winstar respectfully submits that the FCC should amend its rules to require (1) applicants for initial numbering resources to include with their application evidence that they are or will be capable of providing service to end users within six months of receipt of the numbering resources, and (2) the NANPA and Pooling Administrator to initiate reclamation procedures within sixty days of expiration of the service provider's applicable deadline to activate and commence assignment to end users of their numbering resources.

Respectfully submitted,

**WINSTAR COMMUNICATIONS, INC.**

A handwritten signature in black ink, appearing to read 'Danny E. Adams', written over a horizontal line.

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DATED: July 17, 2000

## CERTIFICATE OF SERVICE

I, Tracey Sorenson, hereby certify that on this 17th day of July, 2000, I have caused a copy of the foregoing "Petition for Reconsideration of Winstar Communications" to be hand delivered to the following:

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